

August 18, 2008

ADA NPRM
PO Box 2846
Fairfax, VA 22031-0846

SUBJECT: Nondiscrimination on the Basis of Disability in State and Local Government Services

(Department of Justice – [CRT Docket No. 105; AG Order No. 2967 – 2008] RIN 1190 AA46)

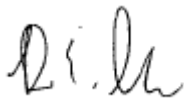
Dear Sir or Madam:

NFPA appreciates the efforts of DOJ to work towards harmonization and modernization of the accessibility guidelines and standards that are consistent with the Architectural and Transportation Barriers Compliance Board.

NFPA develops numerous codes and standards most of which relate to the built environment. Two of these documents in particular, NFPA 101[®], *Life Safety Code*[®] and NFPA 5000[®], *Building Construction and Safety Code*[®] contain specific requirements that regulate accessibility issues that are wholly consistent with the goals of the Department of Justice and the Access Board. Our specific comments are shown on the attached document.

If you have any questions on our written comments or on any other aspects associated with this important rule making, please contact Allan Fraser at 617.984.7411 or by email at afraser@nfpa.org.

Sincerely,



Robert Solomon, P.E.
NFPA

RS:jtm

C: Allan Fraser
Nancy McNabb

ENCL: NFPA Comments

NFPA Comments

1. **General Comments.** Throughout the Background discussion beginning on P. 34469 and continuing on P. 34470, exclusive reference to the IBC is noted. NFPA requests that the Department give equal billing to NFPA 5000®, *Building Construction and Safety Code*® – 2006 edition. NFPA 5000 is the only model building code developed utilizing the rigorous procedures of the American National Standards Institute – ANSI.

The ANSI procedures involve an all inclusive, full participatory and transparent process to develop the appropriate criteria. Chapter 12 of NFPA 5000 – 2006 edition entitled *Accessibility*, was developed and crafted around the proposed ADA/ABA – AG criteria based on the July 23, 2004 notice in the Federal Register. The accessibility criteria in NFPA 5000 as found in Chapter 12 have also been tagged with a reference source back to the ADA/ABA-AG criteria. That would permit a user of the NFPA Code to readily refer back to the same content from the ADA/ABA-AG of our Chapter 12 provisions.

In addition to maintaining consistency with the ADA/ABA-AG criteria, NFPA 5000 also utilizes a uniform approach to its adoption by reference of ICC/ANSI A117, *American National Standard for Accessible and Usable Buildings and Facilities*.

On Page 34552, NFPA appreciates the Department making reference to the National Technology Transfer and Advancement Act of 1995 (PL 104-113). The process that is utilized by NFPA to development its documents, including NFPA 5000, meets not only the spirit and intent of the law but also the letter of the law given our adherence to the ANSI procedure for all codes that are developed by NFPA.

As a final note, NFPA provides a free of charge, on-line access to the general public, version of all NFPA Codes and Standards. This free access model permits any member of the public to review a portion of, or the entirety of, NFPA 5000 concerning general accessibility requirements or more specific elements such as those that might relate to the accessible means of egress provisions.

2. Specific Comments

- **Question 2:** The Department would welcome comment on whether any of the proposed standards for these eight areas (side reach, water closet clearances in single-user toilet rooms with in-swinging doors, stairs, elevators, location of accessible routes to stages, accessible attorney areas and witness stands, assistive listening systems, and accessible teeing grounds, putting greens, and weather

shelters at golf courses) should be raised with the Access Board for further consideration, in particular as applied to alterations.

- *NFPA supports the Access Board's criteria and requests that DOJ not modify them or send them back for further consideration. They are harmonized with A117. 1 and have been properly vetted through the ANSI consensus process.*
- **Question 26:** The Department believes that requiring captioning of safety and emergency information made over the public address system in stadiums seating fewer than 25,000 has the potential of creating an undue burden for smaller entities. However, the Department requests public comment about the effect of requiring captioning of emergency announcements in all stadiums, regardless of size. Would such a requirement be feasible for small stadiums?
 - *NFPA supports the Access Board's criteria and requests that DOJ not modify them or send them back for further consideration. They are harmonized with A117. 1 and have been properly vetted through the ANSI consensus process.*
- **Question 27:** The Department is considering requiring captioning of safety and emergency information in sports stadiums with a capacity of 25,000 or more within a year of the effective date of the regulation. Would a larger threshold, such as sports stadiums with a capacity of 50,000 or more, be more appropriate or would a lower threshold, such as stadiums with a capacity of 15,000 or more, be more appropriate?
 - *NFPA recommends a position that all safety and emergency information should be available to everyone regardless of the venue size. Cost should not be an issue here as there is a lot of cost effective technology available.*
- **Question 28:** If the Department adopted a requirement for captioning at sports stadiums, should there be a specific means required? That is, should it be provided through any effective means (scoreboards, line boards, handheld devices, or other means), or are there problems with some means, such as handheld devices, that should eliminate them as options?
 - *NFPA believes that a specific means for conveying the information should be developed by the appropriate group in the private sector who could develop such standards. DOJ should consider approaching the A117 committee, the Access Board, NFPA, IEEE or someone else to formulate the technical criteria.*

- **Question 52:** The Department’s proposed definition of “place of lodging” includes facilities that are primarily short-term in nature, i.e., two weeks or less in duration. Is “two weeks or less” the appropriate dividing line between transient and residential use? Is thirty days a more appropriate dividing line?
 - *NFPA codes define transient lodging such as those found in hotels, motels and lodging/ rooming houses as being for a period of not more than 30 days. NFPA would support a 30 day limit for this purpose.*
- **Question 53:** The Department believes that the scoping and technical requirements for transient lodging, rather than those for residential dwelling units, should apply to these places of lodging. Is this the most appropriate choice?
 - *NFPA supports this approach.*
- **Question 57:** Would the residential facility requirements or the transient lodging requirements in the 2004 ADAAG be more appropriate for housing at places of education? How would the different requirements affect the cost when building new dormitories and other student housing?
 - *Since these facilities would be subject to occupancy for more than 30 days, NFPA would support use of the residential facility requirements*